

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DEBORAH CHARLESTON and LARRY
CHARLESTON (w/h),

Plaintiffs,

v.

SALON SECRETS DAY SPA, INC., et al.,

Defendants.

CIVIL ACTION

No. 08-5889

ORDER

AND NOW, this 25th day of April, 2011, upon consideration of Defendants Salon Secrets Day Spa, Inc. (“Salon Secrets”) and Pamela A. Troyan’s (“Troyan”) Motion for Partial Summary Judgment (Doc. No. 74), Defendant, Dr. Thomas J. Burke, D.O.’s (“Dr. Burke”) Motion for Summary Judgment (Doc. No. 75), Defendant Barbara A. Lindner’s (“Lindner”) Motion for Partial Summary Judgment (Doc. No. 77), and the Responses and Replies thereto, it is hereby **ORDERED** that said Motions are **DENIED IN PART** and **GRANTED IN PART**. It is **ORDERED** that:

1. Burke’s Motion for Summary Judgment regarding Plaintiffs’ cause of action for negligence is **DENIED**;
2. Salon Secrets’, Lindner’s, and Dr. Burke’s Motions for Summary Judgment regarding Plaintiffs’ causes of action for violations of the Pennsylvania Unfair Trade Practices and Consumer Protection law (“UTPCPL”) are **GRANTED**;
3. Salon Secrets’, Troyan’s, Lindner’s, and Dr. Burke’s Motions for Summary Judgment regarding Plaintiffs’ causes of action for treble damages under the UTPCPL are

GRANTED;

4. Salon Secrets', Troyan's, Lindner's, and Dr. Burke's Motions for Summary Judgment regarding Plaintiffs' causes of action for common law fraud are **GRANTED;**

5. Dr. Burke's Motion for Summary Judgment regarding Plaintiffs' cause of action for negligent misrepresentation is **GRANTED;**

6. Dr. Burke's Motion for Summary Judgment regarding Plaintiffs' cause of action for negligence per se is **GRANTED;**

7. Dr. Burke's Motion for Summary Judgment regarding Plaintiffs' cause of action for negligent infliction of emotional distress is **DENIED;**

8. Dr. Burke's Motion for Summary Judgment regarding Plaintiffs' cause of action for informed consent is **GRANTED;**

9. Dr. Burke's Motion for Summary Judgment on the issue of vicarious liability is **DENIED;**

10. Dr. Burke's and Troyan's Motions for Summary Judgment on the issue of individual liability are **DENIED;** and

11. Salon Secrets', Troyan's, Lindner's, and Dr. Burke's Motions for Summary Judgment regarding Plaintiffs' claims for punitive damages are **DENIED.**

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE